Computer Division

Atari Incorporated
1265 Borregas Avenue
PO Box 427
Sunnyvale California 94086
408 745 2000

Dear Software Developer,

Thank you for your interest in the ATARI Program Exchange (APX). APX was set up as a low cost, mass distribution media for user developed software on computers. Our intent is to provide as much software as possible at a low cost. We hope to benefit our users, to help software writers get started in the business, and to provide an information exchange. In order to do this, we have to form a business relationship, both for your protection and ours.

The most important point is that the Agreement is non-exclusive. You can sell thru us and market the product elsewhere if you want. ATARI is acquiring the non-exclusive right to sell your software and little else. What does ATARI agree to do?

1. ATARI will offer the software in the APX catalog for sale within six months.

2. ATARI will pay you 10% of the 'Base Price'. What does that mean? 'Base Price' will be printed in the catalog. It is a fixed, unambiguous number on which your royalty is based, no matter how we sell the product. When we make dealer discounts, for example, your royalty is fixed no matter what price break we give. We do not pay royalties on the media, postage, state and local taxes. Since we publish the Base Price, there is no way that 'hidden charges' and accounting gyrations can affect you payments.

3. ATARI pays on a quarterly basis.

4. ATARI is offering $100,000 in prizes to APX authors.

5. ATARI agrees to have its books audited for correctness by an independent CPA.

What does ATARI ask from you?

1. The non-exclusive right to market the product and the right to use the name.

2. The right to improve the product (if you become unavailable).

3. That you keep us updated so that we are not selling an inferior version of the product.

In practical terms, what is ATARI doing for APX authors?

1. We have created a separate manufacturing facility and maintain a technical staff for the sole purpose of APX support.

2. There is a regular promotion campaign, including direct mail, dealer distribution ads, and extensive PR.

3. The catalog is distributed to all of our registered owners and all of our dealers.

4. ATARI is offering $100,000 in annual prizes to APX authors. If you're published, you're eligible for the contest.

5. ATARI does all of the manufacturing, including printing, QA, order taking, billing, etc.

6. ATARI intends to publicize and promote your activities thru in-house publications, ads and PR. ATARI has created a mass distribution media for low cost software. You get world wide promotion and distribution of your product and name.

In practical terms, what are you doing for ATARI?

1. You are creating the products and allowing us to sell them, while keeping us updated.

It's a symbiotic relationship, and we hope a long and profitable one all around.

There have been many specific questions and comments on APX and how it works. I have done my best to answer them below but if you have additional questions or comments, feel free to contact me:

Paul Cubbage
Atari, Inc.
1196 Borregas Ave.
Sunnyvale, CA 94086
(408)745-5525

The most common questions (and comments) I've received are:

Question: Isn't a 10% royalty a rip-off?
Answer: No, it's 10% for non-exclusive marketing rights. You can still

sell it elsewhere. I tell everyone that the rewards (and risks) are highest if you do it all yourself.

Question: What can I make if I do it all myself?
Answer: You can make 100% if you sell thru mail order, but be prepared to do heavy advertising and wait a while. Dealers must have a 40% margin to live so you normally have a maximum of 60%. From that you deduct a business license, taxes, shipping, manufacturing, publication, graphics, salaries, phone, market research, mail administrations, returns, legal fees, support, etc. What's left over is yours.

Question: I know someone who'll give me 30%.
Answer: Sounds great! 30% of what? What commitment are they making to your product? Ask yourself:
-Do they reach all of the Atari registered owners?
-Do they do nation-wide promotion?
-Do they reach all Atari dealers?
-Will they promote you thru PR and in-house publications?
-Do they offer $100,000 in prizes to authors?
-What is their commitment in resources, staff, facilities, etc?

Question: What is an 'irrevocable, non-exclusive, world-wide license?
Answer: We have a non-exclusive license to sell you product around the world and you may not revoke that license. You can still sell it elsewhere.

Question: Irrevocable is final sounding. Shouldn't you give up rights if you stop publication?
Answer: Probably, but it's a moot point. If we stop publishing, it's because the product isn't selling. In that case, who cares about something the public doesn't want? If you think it's important, let me know and I'll see what I can do.

Question: The term 'Base Price' looks like a way to slip in hidden costs and reduce royalties.
Answer: The term 'Base Price' is a label which will appear in the catalog next to the software base price. Your royalty is 10% of the published base price and we can do nothing to reduce it. If we have a sale, give discounts, or in some other way reduce our price, you still get the same royalty. We don't pay royalties on media, taxes, customs, duties or postage.

Question: You set all the prices and make decisions about my product?
Answer: That's right. The deal is, you ship it to us, we handle everything and send you checks. Costs go up if we add you to the bureaucracy.

Question: But I have a package which I want sold for $200 and want some assurances on price.
Answer: APX is for low-cost, non-supported programs with a maximum base price of $50. Our experience is that $200 programs require support and should be on a normal full service distribution network.

Question: Atari has the right to change my pacakage at their whim!
Answer: This is not a whimsical operation. We work closely with authors and coordinate changes to programs and documentation. Times change, however. If you move on to bigger and better things, we ask the right to improve the program.

Question: Why do I have to send all changes to you?
Answer: We don't want to be selling an outdated product.

Question: It appears that I have to respect your trade secrets but you don't have to respect mine.
Answer: The lawyers will shoot me if I look at any of your trade secrets without first signing a non-confidential disclosure agreement with you. You shouldn't be sending trade secrets. Copyrighted programs are by definition not trade secrets and the copyright is your protection against unauthorized use by us. Many of our authors do have access to pre-released products and trade secrets and we ask that they respect them.

Question: You can sell your rights but I can't sell mine?
Answer: We have some limited marketing rights. Any we sell means that you'll have a bigger market and more money. From your viewpoint, the only thing you can't do is assign your right to have us audited and you need our permission to change the mode of payment or payee. That serves also to protect you if we don't accept phone calls re-routing your checks.

Question: It reads as if Atari can rip-off my idea and I have no protection.
Answer: The real problem is that we have many things under development and some submittals are very similar to what we are doing already. If you watch the trade journals, you'll soon see that Atari is not only against piracy but is putting a great effort into fighting the pirates.

Question: Why do I have to pay for a CPA if I want your books checked?
Answer: It's not an independent audit if we hire the CPA.

Question: My program is too good for the APX. It's the replacement for Star Raiders!
Answer: Great! Send me your name and address and I'll send you a proposal submittal package. I can't evaluate anything without one of our disclosure forms. Proposals take a while to evaluate, especially the good ones, and not many end up in a deal.

Question: How do I know I can trust you?
Answer: I can only tell you that Atari has a solid reputation in its business dealings. It's always wise to be skeptical when entering into a deal. If you have looked it over carefully and still have doubts about the other party, you shouldn't do business with them. It would not be in Atari's interest to rip you off or to deceive you because then neither you nor other software programmers would send us your materials and APX would collaspe! I usually advise people to ask the following questions when considering a business arrangement-
-Does the deal make good business sense to me?
-Do both parties benefit? (Don't make one way deals, even if you win.)
-Do they keep their word? (Ask people who've dealt with them.)
-Will they be around at the finish?

ATARI® SOFTWARE ACQUISITION PROGRAM

1196 Borregas Avenue, Sunnyvale, CA 94086

ASAP

Software Submittal Agreement

I, _____, am submitting to ATARI, INC. ("ATARI") the computer program (including source code and object code), related documentation and associated audiovisual work ("SOFTWARE") that I call _____

_____.

I warrant that the SOFTWARE is original (the product of my creativity) and that I am the owner and proprietor of all rights in the SOFTWARE and that I have the right to enter into this agreement with ATARI. Further, I agree to indemnify ATARI for losses, liabilities and damages resulting from uses of the SOFTWARE if I know or reasonably should know others have rights in it.

ATARI agrees to review the SOFTWARE. In return, I grant to ATARI, for no more than sixty days from the date ATARI has received both the SOFTWARE and this agreement, the exclusive and irrevocable option to acquire rights as set forth below. ATARI may exercise this option by mailing to me an executed copy of this agreement.

Should ATARI not exercise its option, ATARI will have no rights in the SOFTWARE or obligations to me concerning the SOFTWARE.

Should ATARI exercise its option:

1. ATARI shall offer the SOFTWARE for sale within six months of its exercise of the option.

2. ATARI shall pay to me on a calendar quarterly basis, 10% of ATARI's net receipts (see paragraph 7 below) for all copies of the SOFTWARE marketed by ATARI during the preceding calendar quarter.

3. I have the right to have the payment calculations verified once a year, at my expense. Verification shall consist of examination of pertinent records by a certified public accountant of my choice and approved by ATARI who must execute a confidential disclosure agreement provided by ATARI and who may not disclose any information to me other than his opinion as to the accuracy of the payment(s).

4. I grant an irrevocable nonexclusive, worldwide license to ATARI to reproduce, adapt, distribute, perform, display and otherwise market the SOFTWARE and use the name of the SOFTWARE, including any trademark and good will associated with the name.

5. I may develop improvements, translations, adaptations and other derivative works of the SOFTWARE. Should I develop any such works that can be used with ATARI products or ATARI-compatible products, I will deliver them to ATARI and ATARI may include them in the SOFTWARE under this Agreement.

6. ATARI shall have all rights to manage and to conduct any marketing of the SOFTWARE, including the rights to determine: method of marketing, pricing, marketing terms, name and description of the SOFTWARE and advertising. The SOFTWARE will be marketed through the ATARI Program Exchange. ATARI may remove the SOFTWARE from its catalog and otherwise cease marketing at any time. ATARI can give no assurances concerning the success of any marketing efforts.

7. For the purpose of computing royalty payments under paragraph 2, "net receipts" shall mean the base price received by ATARI for the SOFTWARE. The base price of the SOFTWARE does not include the cost of diskettes, cassettes, cartridges, or other media ("Media"), handling, taxes or duties. Refunds allowed by ATARI to customers upon returns of Media (containing the SOFTWARE) will be deducted in determining "net receipts".

If the Media containing the SOFTWARE is marketed as a package with other programs, net receipts will be allocated by ATARI on a pro rata basis among the programs in the package based on the base price of each of the programs.

8. ATARi shall have the right to modify, revise, enhance, improve or develop the SOFTWARE or any related documentation, instructions or packaging for the SOFTWARE in any manner that ATARI may choose. ATARI shall be the owner of any such revisions, enhancements, improvements or developments and may use, sell and otherwise market them based on the above terms of royalty payments to me.

9. All nonpublic information pertaining to ATARI's business, the SOFTWARE, its method of operation and its marketing shall be considered strictly confidential and proprietary to ATARI and shall not be disclosed by me to any third party without ATARI's express written consent.

10. If I break this agreement, or my representations or warranties prove to be untrue, or ATARI is entitled to be indemnified by me, ATARI may withhold the amount of any royalty payments I would otherwise receive and set off such amounts against any expense, liability or loss ATARI shall have incurred or suffered or that it may reasonably anticipate.

I recognize that ATARI develops its own software and acquires software from others that may be similar to my own. Accordingly, I submit the SOFTWARE on a nonconfidential basis and release ATARI from any obligation to me that might arise from any marketing or use by ATARI of other software having programming, audiovisual display, subject matter, concepts and/or name resembling those of the SOFTWARE, except for ATARI's obligation to pay me royalties, as set forth above, for the marketing of the SOFTWARE or other software derived from and substantially identical both in programming and audiovisual display to the SOFTWARE.

If ATARI does not exercise its option with respect to the SOFTWARE, ATARI shall be under no obligation to return the SOFTWARE to me. ATARI shall have no liability to me if the SOFTWARE is lost, damaged or destroyed.

This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. ATARI may assign all or any portion of its rights under this agreement. Seller may not assign or delegate any of its rights or obligations under this agreement without the express written consent of ATARI. This agreement shall be governed by the substantive law of the State of California, and any action brought by either party hereunder shall only be brought in the Northern District of California (if in federal court) or in the County of Santa Clara, State of California (if in state court). In no event shall ATARI be liable for any incidental or consequential damages. If any provision of this agreement shall be held by a court to be contrary to law, the remaining provisions shall remain in full force and effect. This agreement is the only agreement between ATARI and me regarding the SOFTWARE. Any modification to this agreement must be in writing and signed by ATARI and me.

Submittor

_____

(Print name of individual or Company)

By: _____

Title: _____

Date: _____

Address: _____

Option Exercised by ATARI
For: ATARI, INC.

By: _____

Title: _____

Date: _____

Address: 1196 Borregas Avenue, Sunnyvale, CA 94086

(NOTE: (1) If the Program is the property of more than one individual, this Agreement must be signed by all such individuals as "Submittor", together with a statement of the name and address of the individual who is to receive notices and royalties. The obligations of each such individual under the agreement shall be joint and several. (2) If Seller is under 21 years of age the signature of Seller's parent or legal guardian is also required, with a statement that such person is signing as legal guardian. (3) If Seller is a corporation, this Agreement should be signed by an officer of the corporation empowered to enter into agreements on behalf of the corporation.)

ATARI® is a registered trademark of Atari, Inc.

ATARI PROGRAM EXCHANGE

Program Submission Form

FOR ATARI PROGRAM EXCHANGE USE ONLY

Date received _____ Submission number _____

Date accepted _____ Date rejected _____

Program No. APX- _____ Reason _____

Documentation rating _____ _____

Reviewer _____

(PLEASE PRINT OR TYPE)

Program title _____
(Make this as generic as possible to avoid trademark complications.)

File name _____

☐ New program or ☐ Revision (by original author only) to program number APX- _____

Submitted on ☐ cassette ☐ single-density diskette ☐ double-density diskette.

Program language _____

Author's name _____
(Please print your name as you want it to appear in the software catalog.)

Street _____

City _____ State/Country _____ Zip code/mail code _____

Day telephone number (____)_____ Social Security number _____

May users contact you if they need help in using your program?
(Your agreement to be contacted will be indicated in the software catalog.)

☐ yes ☐ no ☐ by mail ☐ by telephone

Software category (check one)
☐ Business and Professional Applications
☐ Personal Finance and Record Keeping
☐ Personal Interest and Development
☐ Education
☐ Entertainment
☐ System Software

Intended user:
Age range _____

Required skills _____

_____

_____

Minimum RAM required (fill in at least the RAM size for the medium on which you submit your program; fill in the other minimum RAM sizes if you have this information):

_____K RAM (cassette) _____K RAM (single-density diskette)

_____K RAM (double-density diskette)

Referring to the list below, check *all* the required and optional accessories. Be sure to indicate when a user has a *choice* of accessories.

Req'd.	Opt.	
☐	☐	ATARI Assembler Editor Cartridge
☐	☐	ATARI 410 Program Recorder
☐	☐	ATARI 810 Disk Drive
☐	☐	ATARI 815 Disk Drive
☐	☐	ATARI 820 Printer
☐	☐	ATARI 822 Printer
☐	☐	ATARI 825 Printer
☐	☐	ATARI 850 Interface Module
☐	☐	ATARI 830 Acoustic Modem
☐	☐	ATARI Joystick Controller(s)

Req'd.	Opt.	
☐	☐	ATARI Paddle Controller(s)
☐	☐	ATARI Keyboard Controller(s)
☐	☐	ATARI Light Pen
☐	☐	Pilot
☐	☐	Fig FORTH (APX)
☐	☐	Other software (list these) _____
☐	☐	Other accessories (list these) _____

For programs on diskette, list the names of all files and the function of each:

Loading instructions:

Check that you have included your:

- ☐ Program cassette/diskette
- ☐ Program Submission Form
- ☐ Software Submittal Agreement (2 signed copies)
- ☐ User instructions
- ☐ Source code in machine-readable form

Mail your materials to:

THE ATARI PROGRAM EXCHANGE
P.O. Box 427
1196 Borregas Avenue
Sunnyvale, California 94086

ASAP CONTEST

Atari will award $100,000 in prizes between now and June 1982 to software authors who are published in the APX Catalog. Awards include quarterly prizes of Atari products with a total suggested retail value of $75,000 (18,750 a quarter) and a $25,000 cash grand prize. Acceptance of a program product for the APX catalog qualifies the author for the APX contest. Every three months there will be a First, Second, and Third place prize for the best programs accepted in each of the four categories. There are larger prizes in the Consumer category (personal development, home, hobby, games). The quarterly prizes are dollar values to be applied to the suggested retail price of ATARI products.

QUARTERLY PRIZES BY CATEGORY

	CONSUMER	BUSINESS/ PROFESSIONAL	EDUCATIONAL	SYSTEMS/ UTILITY
1ST Prize*	$3,000	$2,000	$2,000	$2,000
2ND Prize*	$2,000	$1,500	$1,500	$1,500
3RD Prize*	$1,000	$750	$750	$750

*in Atari Products

GRAND PRIZE - $25,000 Cash

AWARD DATES:

Winners will be announced in the quarterly APX catalog. Quarterly winners in each catalog are selected from programs first published in that issue of the catalog. The first catalog (published May 1, 1981) contains only Atari programs, which are not eligible for prizes. Publication, Acceptance/Entry, Deadlines and Award Dates are:

Date	Item
May 1, 1981	Premiere catalog - not part of contest
July 1	Fall issue acceptance deadline
October 1	Winter issue acceptance deadline
December 1	Winter catalog - quarterly prizes awarded
January 1, 1982	Spring issue acceptance deadline
February 1	'81 Grand Prize Awarded
March 1	Spring catalog - quarterly prizes awarded
April 1	Summer issue acceptance deadline
June 1	Summer catalog - quarterly prizes awarded

CONTEST RULES:

1) A program must be ACCEPTED and PUBLISHED by APX to be eligible for the contest.
2) A program is eligible for the prizes in the category in which it is published. ATARI will determine the category in which each program will be listed.
3) A program is eligible for the quarterly prizes awarded in the catalog in which it is first published and for the grand prize of the contest year in which the quarter falls.
4) A program qualifies only once for a quarterly prize and once for a grand prize. Modifications and improvements can not qualify a program for another prize in this contest.
5) A program will be judged on a variety of factors including but not limited to the following:

    a) Human engineering
    b) Originality
    c) Ease of use
    d) Implementation
    e) Documentation
    f) Interest level

6) ATARI employees and their families are not eligible for the APX contest.
7) ATARI will pay for shipping prizes anywhere within the United States. Foreign winners will be responsible for any additional shipping charges.
8) The decisions of the judges are final.